

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANK POLIVKA, on Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

Case No. 05-CV-0297 (BSJ)(MHD)

WALTER E. AUCH, FRANK K. REILLY,
EDWARD M. ROOB, ADELA CEPEDA, J.
MIKESELL THOMAS, MARGO N.
ALEXANDER, UBS FINANCIAL SERVICES,
INC., UBS GLOBAL ASSET MANAGEMENT
AMERICAS, INC., UBS GLOBAL ASSET
MANAGEMENT (NEW YORK), INC., SSGA
FUNDS MANAGEMENT, INC., MARSICO
CAPITAL MANAGEMENT, LLC,
DELAWARE INVESTMENTS, WESTWOOD
MANAGEMENT CORPORATION,
INSTITUTIONAL CAPITAL CORPORATION,
ICM ASSET MANAGEMENT, INC., ARIEL
CAPITAL MANAGEMENT, LLC, and JOHN
DOES NO. 1 THROUGH 100

Defendants.

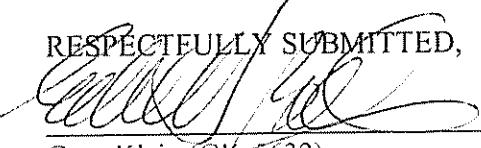
JURY TRIAL DEMANDED

**NOTICE OF DISMISSAL OF WALTER E. AUCH, FRANK K. REILLY, EDWARD M.
ROOB, ADELA CEPEDA, J. MIKESELL THOMAS, UBS FINANCIAL SERVICES,
INC., UBS GLOBAL ASSET MANAGEMENT AMERICAS, INC., SSGA FUNDS
MANAGEMENT, INC., MARSICO CAPITAL MANAGEMENT, LLC, DELAWARE
INVESTMENTS, WESTWOOD MANAGEMENT CORPORATION, INSTITUTIONAL
CAPITAL CORPORATION, ICM ASSET MANAGEMENT, INC. and ARIEL CAPITAL
MANAGEMENT, LLC**

Pursuant to Fed. R. Civ. 41(a), plaintiff hereby dismisses WALTER E. AUCH, FRANK K. REILLY, EDWARD M. ROOB, ADELA CEPEDA, J. MIKESELL THOMAS, UBS FINANCIAL SERVICES, INC., UBS GLOBAL ASSET MANAGEMENT AMERICAS, INC., SSGA FUNDS MANAGEMENT, INC., MARSICO CAPITAL MANAGEMENT, LLC, DELAWARE INVESTMENTS, WESTWOOD MANAGEMENT CORPORATION, INSTITUTIONAL CAPITAL CORPORATION, ICM ASSET MANAGEMENT, INC. and ARIEL CAPITAL MANAGEMENT, LLC as parties to this action, which has not been certified as a class action. This dismissal is without prejudice. Plaintiff is not dismissing his claims against UBS GLOBAL ASSET MANAGEMENT (NEW YORK) and MARGO N. ALEXANDER.

Dated: June __, 2005.

RESPECTFULLY SUBMITTED,


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Dated: _____

SO ORDERED:

United States District Judge